

Cataract with Ambarvale Trust Ordinance 2001

No 37, 2001

Long Title

An Ordinance to vary the trusts on which certain property is held and to establish the Cataract with Ambarvale Trust.

Preamble

A. Anglican Church Property Trust Diocese of Sydney is the trustee of the property described in each of the cells in column 1 of the table in the Schedule (the "Existing Property").

B. The property described in a cell in column 1 of the table in the Schedule is held on the trusts described in the corresponding cell in column 2 of the Schedule.

C. By reason of circumstances which have arisen after the creation of the trusts on which the Existing Property is held, it is inexpedient to carry out and observe those trusts.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

1. Name of this ordinance

This Ordinance is the Cataract with Ambarvale Trust Ordinance 2001.

2. Declarations

By reason of circumstances which have arisen after the creation of the trusts on which the Existing Property is held, it is inexpedient to carry out and observe those trusts, and

- (a) it is inexpedient that the Existing Property be held for the same or like purposes as the trusts on which the Existing Property is held; and
- (b) it is expedient that power be given to the Property Trust to lease or licence from time to time any part of the real property forming part of the trust fund.

3. Definition of "trust fund"

In this Ordinance -

"trust fund" means -

- (a) the Existing Property; and
- (b) all real and personal property received or acquired by the Property Trust from time to time as an addition to the trust fund.

4. Name of the trust fund

The trust fund is to be known as the Cataract with Ambarvale Trust.

5. New trusts

Subject to the terms of this Ordinance, the trust fund is held upon trust for the purposes of the provisional parish of Cataract with Ambarvale (the "Parish").

6. Capital of the trust fund

- (1) Any real property which forms part of the capital of the trust fund, may be used for one or more of the following purposes -
 - (a) a church;
 - (b) a residence for the minister, an assistant minister or any person employed by the churchwardens of a church in the Parish;
 - (c) a hall or halls;
 - (d) a school or other place of assembly;
 - (e) any purpose incidental to a purpose referred to in paragraph (a), (b), (c) or (d).
- (2) Any personal property which forms part of the capital of the trust fund may be applied by the Property Trust for one or more of the following purposes -
 - (a) the payment of all rates, taxes and charges incurred by the Property Trust in relation to the trust fund, any property forming part of the trust fund or any transaction with property forming part of the trust fund; and
 - (b) the costs of maintenance and repair of any property forming part of the trust fund required to meet minimum standards of maintenance and repair prescribed by Act, Regulation, Order or other law and applying to that property;
 - (c) for such purposes as the Standing Committee may direct by ordinance or resolution.
- (3) Pending application under clause 6(2), any personal property which forms part of the capital of the trust fund is to be invested.
- (4) If the churchwardens of a church in the Parish make a payment to the Property Trust as an addition to the trust fund for the purpose of enabling the Property Trust to make a payment under any contract made or to be made by the Property Trust as trustee of the trust fund and -

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- (a) the full amount of the payment made by the churchwardens is not required by the Property Trust for that purpose, the Property Trust may pay to the churchwardens an amount equal to the excess; or
- (b) the Property Trust claims an input tax credit (as defined in the *New Tax System (Goods and Services) Act 1999*) in respect of the payment made under the contract, the Property Trust may pay to the churchwardens an amount equal to the amount of the input tax credit (or proportionate part thereof where the payment made by the churchwardens is less than the payment made by the Property Trust).

7. Application of the income of the trust fund

(1) The income of the trust fund (other than income referred to in clause 7(2)), after paying all rates, taxes and charges incurred by the Property Trust in relation to the trust fund, any property forming part of the trust fund or any transaction with property forming part of the trust fund, is to be applied as follows -

- (a) 30% is to be capitalised, and
- (b) the balance is to be paid to the churchwardens of the church of the Parish or, if there is more than one church, the churchwardens of the principal church of the Parish, to be applied for such purposes of the Parish as the parish council may from time to time determine.

(2) The income of the trust fund arising from a residential lease granted pursuant to clause 9(1) for a weekly rental which does not exceed \$750 or such other amount as the Standing Committee determines by resolution is to be applied in accordance with clause 7(1)(b).

8. Review

- (1) The authority to apply income under clause 7(1)(b) earned after the review date terminates on the review date.
- (2) For the purposes of subclause (1) "review date" means the date which is 5 years after the date this Ordinance commences or such later date as the Standing Committee approves from time to time by resolution.

9. Powers - leasing and licensing of real property

(1) With the written consent of the parish council of the Parish, the Property Trust may lease or licence any part of the real property forming part of the trust fund, except any part which is consecrated or licensed for use as a church, if the term of the lease or licence (when aggregated with the term of any option to renew such lease or licence) does not exceed 5 years.

(2) Nothing in this clause limits the powers of the Property Trust under the Anglican Church Property Trust Ordinance 1965 or under any other ordinance.

10. Commencement

This Ordinance commences on the date of assent to this Ordinance.

Schedule

Column 1	Column 2
(1) Folio Identifier 4/1/759094 (2) Folio Identifier 7/1/759094 (3) Auto Consol 297-231 being Lot 5 and Lot 6 of Section 1 in Deposited Plan 759094, known as St Luke's Church and Cemetery Wilton Road Wilton	(1) By Crown Grant dated 16 February 1872 the land is held on trust for the erection thereon of a school house in connection with the United Church of England and Ireland. (2) By Crown Grant dated 16 February 1872 the land is held on trust for the appropriation as a site of a dwelling House, Garden, and other Appurtenances, for the Clergyman appointed to officiate in the Church of the United Church of England and Ireland in NSW at Wilton. (3) By Crown Grant dated 16 February 1872 the land is held on trust for the erection thereon of a church of the United Church of England and Ireland.
Folio Identifier 11/999885 known as 4 Church Street, Appin	The land is held on trust for the provisional parish of Cataract with Ambarvale although there are no written trusts.
Folio Identifier 1/999948 known as the Site of the Vacant Burial Ground, Georges Street, Appin	By Crown Grant No 77 Pg 15 the land is held on trust for the Interment of the Dead according to the use of the United Church of England and Ireland as by law established.

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Column 1	Column 2
Volume 14831 Folio 242 being Lot 1263 in Deposited Plan 262848 known as 20 Cleopatra Drive, Ambarvale	By resolution dated 14 July 2000 the Property Trust declared the land to be held upon trust for the provisional parish of Cataract with Ambarvale pursuant to clause 3 (5) of the New Sites Ordinance 1982
Folio Identifier 1/749781 known as the Site of St Timothy's Church, Corner of Copperfield Drive and Hamlet Crescent, Rosemeadow	By notice dated 8 April 1992, the land is held on trust for the provisional parish of Cataract with Ambarvale pursuant to clause 4 (8) of the New Sites Ordinance 1982.
Folio Identifier 1003/734802 known as the vacant land at Camden Road, Douglas Park	By resolution dated 14 July 2000 the Property Trust declared the land to be held upon trust for the provisional parish of Cataract with Ambarvale pursuant to clause 3 (5) of the New Sites Ordinance 1982
Volume 15471 Folio 172 being Lots 19 and 20 of Section 3 at Appin known as St Mark the Evangelist Church and Hall Church Street, Appin	The preamble to the Campbelltown (Appin) Ordinance 1986 recites that the land is held on trust to permit the same to be used for Church of England Church purposes.
Anglican Church Property Trust Client fund 486	Pursuant to clause 4 of the Cataract with Ambarvale (Appin) Land Sale Ordinance 1990 the net proceeds of sale of - (a) part of the land contained in Land Grant registered in Grant of the United Church of England and Ireland No 79 Pg 15; (b) land in Land Grant registered in the Grants of the United Church of England and Ireland No. 65 Pg 25; and (c) land in Land Grant Volume 1841 Folio 222, shall be applied by the Corporate Trustee towards the costs of the acquisition of other land in the Appin district to be held upon trust for Provisional Parish of Cataract with Ambarvale provided that pending such application the fund shall be invested and applied as follows: (a) 20% of the income shall be capitalised; and (b) 80% of the income shall be paid to the churchwardens of the principal church of the Provisional Parish and applied by them toward general parochial purposes including the cost of the stipend and allowances of persons licensed or employed within the provisional parish other than the stipend and allowances of the curate-in-charge.
Anglican Church Property Trust Client Fund 484	Pursuant to clause 2 (d)(iv) of the Cataract with Ambarvale Ordinance 1987 the remainder of the sale proceeds held under the Campbelltown (Appin) Ordinance 1986 shall be invested and 30% of the income each year shall be capitalised while the balance shall for the years ending 31 December between 1991 and 2000 be paid to churchwardens of the Appin church to be applied by them towards the provision of ministry at Appin other than the stipend of the minister.

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Column 1	Column 2
Anglican Church Property Trust Client Fund 507	<p>Pursuant to clause 4 (d) of the Douglas Park Land Sale Ordinance 2000 the proceeds arising from the sale of the land in Certificate of Title Auto Consol 1803-117 being the land known as Lot 5 and Lot 6 of Section 12 in Deposited Plan 1320 situated at the corner of Camden and Dowle Streets, Douglas Park shall be applied:</p> <p>(a) towards the repayment to the Property Trust's fund 390 - New Sites Advisory Committee of all monies applied by the New Sites Committee to the purchase of the property at Lot 1003 Camden Road, Douglas Park;</p> <p>(b) towards the repayment to the Property Trust's Fund 390 - New Sites Advisory Committee of all monies applied by the New Sites Committee to the purchase of the property at 20 Cleopatra Drive, Rosemeadow; and</p> <p>(c) towards the repayment of all monies owing to the Sydney Church of England Finance and Loans Board in respect of the acquisition of land and construction of St Timothy's Ambarvale comprised in loans 103 and 104; and</p> <p>(d) the balance remaining thereafter to be applied by the Property Trust towards the construction of a worship centre on Lot 1003 Camden Road, Douglas Park provided that any monies not so applied are to be held upon trust for the provisional parish of Cataract and Ambarvale and used towards the acquisition of Land to be held upon trust for the Provisional Parish or towards the cost of refurbishment, renovation or construction of buildings on Land held upon trust for the Provisional Parish.</p>

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

PETER YOUNG
Deputy Chairman of Committees

I Certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on September 2001.

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M A PAYNE
Secretary

I Assent to this Ordinance.

PETER F JENSEN
Archbishop of Sydney
26 /09 /2001